

I, Josiah B. Thomas of Peabody, in the State of Massachusetts, do make this my last will and testament, hereby revoking any and all former wills by me at any time heretofore made.

First, I direct that my just debts and funeral expenses be promptly paid after my decease.

Second, I give to my wife, Deborah S. Thomas, one hundred sixty-four thousand dollars (\$164,000.00), nine thousand dollars (\$9000.00) having been heretofore given to her as part of her share in my estate, as shown on my books.

Third, I also give, devise and bequeath to my said wife the homestead in which we now live in said Peabody, together with so much land as shall be used in connection with said homestead at the time of my decease.

I also give to my said wife all the household goods, furniture, books, pictures, and household ornaments of every description used in said homestead at the time of my decease.

Fourth, I give, devise and bequeath to my nephew Fred B. Thomas and his wife, Eller Thomas, each one undivided half of the following mentioned estates which were purchased by me of the parties who are named in the years herein given, the approximate value of each estate being given, the whole quantity as estimated by me being five hundred and eight (508) acres, of the value of six thousand (\$6,000.00), namely:-

1873, Jos. P. Gould, Middleton & Boxford,	30 acres,	\$2800.
1873, Lorenzo P. Town, Boxford,	7/6 "	60.
1873, J. M. Richardsch, Middleton & N. Reading,	2 1/2 "	232.50
1874, Thos. S. Pepper, Middleton & Boxford	26 "	
1874, W. S. Russell, Paper Mills	60 "	2800.
1873, I. N. Averill and others, Topsfield	13 "	1173.
1873, Alathia Wilder, Topsfield	13 "	100.
1875, Estate Moses Putnam, Boxford,	26 "	1500.
1875, G. A. Tapley, Middleton	7 "	500.
1875, Samuel A. Cummings, Boxford,	16 3/4 "	400.
1875, John Bates, Middleton & Boxford	20 "	1465.
1875, John Sawyer, Middleton & NO. Andover	36 "	1800.

1875, Thos. Sawyer, Boxford,	21 acres	1350.
1876, D. Webster, King,		- - -
1882, Jas. P. Cleaveland, Boxford & Rowley,	35 1/2 "	3900.
1883, Harriet Symonds, Middleton & Boxford,	10 "	500.
1884, Mary E. Manning, Middleton,	25 "	1000.
1885, Andrew Gould, Topsfield,	16 3/4 "	1200.
1885, Eben Sutton, North Andover,	11 "	- - -
1887, Francis O. Kimball, Middleton,	28 "	1700.

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1887, Francis O. Kimball, Middleton & No. Andover	12 acres	\$ 650.
1887, Lucy Symonds, Boxford,	6 "	700.
1887, Eliza A. Chapman, Ipswich	14 3/4 "	1000.
1889, George Roundy, Middleton	6 "	- - -
1889, David Foster, No. Andover & Middleton	27 "	2000.
1889, Porter I. Gould, Boxford	10 "	750.
1891, Elizabeth A. Fuller, Middleton	24 "	1700.
1883, Geo. B. Loring, Middleton & Boxford	10 "	- - -

For a more particular description of the estates herein devised to said Fred B. Thomas and Eller Thomas, reference is made to the deeds conveying the same to me.

I also give, devise and bequeath to said Fred B. Thomas the estate on Oak Street, in said Peabody, which he now occupies as a dwelling.

Fifth. To my niece Hannah Vaughan, formerly Hannah Thomas, I give, devise and bequeath that estate situate in said Peabody on Foster Street, adjoining the estate now owned and occupied by James Roome, being the same estate formerly owned by William Hayes.

Sixth. I give to Deborah S. Thomas and Charles A. Thomas, both of said Peabody, and William H. Niles of Lynn, in said State of Massachusetts, seventy-five hundred dollars (\$7500.00) in trust, to pay over the income thereof to my niece Grace Teele, formerly Grace Thomas, so long as she shall live, and at her decease to pay over the balance remaining in their hands under this trust, discharged of all trust, to the children of said Grace Teele, it being my intention that the issue of any deceased child of said Grace shall take the share the parent would have taken if living.

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Seventh. I give to Nellie Thomas, Fannie Thomas, Prentiss Thomas and Henry Thomas, my nieces and nephews, all of said Peabody, and to my niece Cora Cushman, and nephew George Cushman, both of Middleboro, in the state of Massachusetts, the sum of five thousand dollars (\$5000.00) each.

Eighth. To my nephews Alton B. Atwood, of Chelsea, Massachusetts, and Levi O. Atwood, of South Pasadena, California, I give, devise and bequeath the Nemascot Hotel in said Middleboro, together with all this land connected therewith. If at my decease I shall have sold or disposed of said hotel and land, then in lieu thereof, I give to said Alton B. and Levi O. Atwood, the sum of nine thousand

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dollars (\$9000.00) to be divided equally between them.

I also give, devise and bequeath to said Alton B. and Levi O. a small piece of cedar swamp situate in said Middleboro, adjoining land of Nathaniel Shurtleff, being the same bought by me of the heirs of Jesse Vaughan.

I also give to said Alton B. and Levi O. Atwood the sum of three hundred fifty dollars (\$350.00), each.

Ninth. To the Third Calvinist Baptist Church of said Middleboro, I give five thousand dollars (\$5000.00) upon condition that said sum be deposited in savings banks of undoubted credit, and that the income only be applied to the use and support of said church. Said money or any part thereof may be transferred from one savings bank to another at any time when the security of the investment seems to require such transfer.

Tenth. I set apart the sum of one thousand dollars (\$1000.00), the income of which shall be used for the perpetual care and maintenance of two burial lots in said town of Middleboro, namely- the lot of H. N. Thomas and family, and the lot of W. O. Barrows, and family; said one thousand dollars (\$1000.00) to be at all times securely invested by the selectmen of said Middleboro, or such trustee as may be annually named or appointed by them. And in case said town shall be incorporated as a city, such trustee shall be annually named or appointed by the Board of Aldermen, or such other board of said city gov-

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ernment as may have substantially the duties and powers of Boards of Aldermen as now constituted. If by any inadvertence or mistake, the appointment should not be made during any one year, such appointment may be made after the expiration of the year by the Selectmen or Board of Aldermen with the same effect as if no omission to name or appoint had previously occurred.

Eleventh. I give to said Deborah S. Thomas, Charles A. Thomas, and William H. Niles, fifty thousand dollars (\$50,000.00) in trust, to pay over to my granddaughter Lila B. Thomas, daughter of my deceased son Horatio W. Thomas, ten thousand dollars (\$10,000.00) when

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the said Lila B. shall have attained the age of twenty-one years, and the income of forty thousand dollars (\$40,000.00) for and during the life of the said Lila, but I leave it to the judgment and discretion of my said trustees and their successors as to how much, if any, of said income to apply to the support and education of said Lila during her minority; at the death of the said Lila, if she leaves issue living, I direct said trustees, or their successors, to pay to such issue discharged of all trust any balance remaining in their hands under this trust; but if she leaves no issue living, then I direct said trustees, or their successors, to pay the income arising under this trust to my two other granddaughters, sisters of said Lila, in equal parts, and at the death of either of said survivors, if such survivor leaves issue living, one half of all remaining in the hands of said trustees or their successors, under this trust, shall be paid, discharged of all trust, to such issue; but if said survivor leaves no issue living, the share of such survivor shall be paid, discharged of all trust, to the issue of my other granddaughter.

Twelfth. I give to said Deborah S. Thomas, Charles A. Thomas, and William H. Niles, fifty thousand dollars (\$50,000.00) in trust, to pay over to my granddaughter Mary A. Thomas, daughter of my said son, ten thousand dollars (\$10,000.00) when the said Mary A. Thomas shall have attained the age of twenty-one years, and the income of forth thousand dollars (\$50,000.00) for and during the life of the said Mary A. but I leave it to the judgment and discretion of my said trustees,

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and their successors, as to how much, if any, of said income to apply to the support and education of said Mary A. during her minority; at the death of the said Mary A. if she leaves issue living, I direct said trustees or their successors, to pay to such issue, discharged of all trust, any balance remaining in their hands under this trust; but if she leaves no issue living, then I direct said trustees, or their successors, to pay the income arising under this trust to my two other granddaughters, sisters of

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said Mary A. in equal parts and at the death of either of said survivors, if such survivor leaves issue living one half of all remaining in the hands of said trustees, or their successors, under this trust, shall be paid, discharged of all trust, to such issue; but if said survivor leaves no issue living, the share of such survivor shall be paid, discharged of all trust, to the issue of my other granddaughter.

Thirteenth. I give to said Deborah S. Thomas, Charles A. Thomas, and William H. Niles, fifty thousand dollars (\$50,000.00) in trust, to pay over to my granddaughter Clara J. Thomas, daughter of my said son, ten thousand dollars, (\$10,000.00) when the said Clara J. Thomas shall have attained the age of twenty-one years, and the income of forty thousand dollars (\$40,000.00) for and during the life of the said Clara J., but I leave it to the judgment and discretion of my said trustees, and their successors, as to how much, if any, of said income to apply to the support and education of said Clara J. during her minority; at the death of the said Clara J., if she leaves issue living, I direct said trustees, or their successors, to pay to such issue, discharged of all trust, any balance remaining in their hands under this trust; but if she leaves no issue living then I direct said trustees, or their successors, to pay the income arising under this trust to my two other granddaughters, sisters of said Clara J., in equal parts, and at the death of either of said survivors, if such survivor leaves issue living, one half of all remaining in the hands of said trustees or their successors, under this trust, shall be paid, discharged of all trust, to such issue; but if said survivor leaves no issue living, the share of such survivor shall be paid, discharged of all trust, to the

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issue of my other granddaughter.

Fourteenth. I give to said Deobrah S. Thomas, Charles A. Thomas and William H. Niles, one hundred twenty-five thousand dollars (\$125,000) in trust, for the benefit of my only grandson Elmer B. Thomas, and I direct said trustees, or their successors, to invest at my death,

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or as soon as practicable thereafter, seventy-five thousand dollars (\$75,000.00) thereof in my beef and mutton business, intending to include any and all branches thereof, provided an arrangement substantially as hereafter stated can be made for the carrying on of said business, and not otherwise, except as hereafter set forth.

A partnership shall be formed to continue until the said Elmer attains the age of twenty-two years, between the said Elmer and Walter C. Merrill of said Feabody, provided they shall both be living and competent to engage therein at the time of my decease. The said Elmer shall be allowed five per cent for the use of his capital, said five per cent, to be added to the principal at the end of each year, and remain in the business. The firm shall attain all the real estate the rent of which is charged to said business on my books at the time of my decease, and at a rate of rent forty per cent, less than the rate charged upon said books at this date; and said firm shall purchase, and my executors shall sell to said firm, such personal property as is in use by said business as shown on said books at the last appraisal thereof appearing upon said books on such terms or credit as said executors in their discretion may allow.

The said Merrill shall have a salary of five thousand dollars (\$5000.00) per annum, and the said Elmer for any time he shall give to said business shall be allowed at the rate of two thousand dollars (\$2000.00) per annum therefor.

After the payment of interest, rent, salaries, and other expenses of the business, the profits remaining shall be divided equally between the said Elmer and Walter C. Merrill, and losses shall be borne in the same proportion.

If by death or otherwise said partnership should be dissolved and the capital of the said Elmer should be released therefrom by

reason of such dissolution, or from any other cause, the same shall, if the said Elmer has not attained the age of twenty-two years, be returned to said trustees, or their successors, to be paid to the said Elmer, discharged of all trust, when he shall have attained the

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age of twenty-two years.

When the said Elmer has attained the age of twenty-two years, said seventy-five thousand dollars (\$75,000.00), whether invested in said business or otherwise, shall become the property of the said Elmer, discharged of all trust.

The share of the profits accruing to the said Elmer upon his share in the business shall if needed as capital in the business be added annually to his capital, or invested in the business, until he reaches the age of twenty-two years; if such share is not needed in said business, it shall be paid over to my trustees, or their successors, and added to the fund already in their hands.

When the said Elmer attains the age of twenty-two years, the income of said remaining fifty thousand dollars (\$50,000.00) together with the income of all additions that may be made thereto under subsequent provisions of this will shall be paid to the said Elmer from time to time as may conveniently be done by my said trustees, or their successors, unless in the judgment of all of my said trustees, or their successors, said Elmer should be unfit to properly use and care for the same, in which event, I authorize my said trustees, or their successors, to withhold the same or any part thereof from him until such time as he is in the judgment of said trustees, or their successors capable of properly using and caring for the same; but if he should not in the judgment of said trustees, or their successors, while said principal remains in their hands become capable of so doing, I direct them to add the part of the income not paid over to him to the principal, to be disposed of under this trust.

I also authorize my said trustees, or their successors, if in the opinion of all three of them the said Elmer after he has attained the age of thirty years, is capable of prudently using and managing the whole or any part of the principal, to pay over to him, discharged

of all trust, the whole or such part of said principal as they may deem best.

At the death of the said Elmer, I direct my said trustees, or
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their successors, if the said Elmer leaves issue living to pay such sum, if any remains in their hands under this trust, to such issue, but if the said Elmer should leave no issue living, in that case, if my said wife shall survive the said Elmer, one half of all that remains in the hands of said trustees, or their successors, under this trust, shall go, discharged of all trust, to my said wife, and the remaining half shall be paid to my said three granddaughters, or if either of said granddaughters shall have died leaving issue living, such issue shall have the share that the mother would have been entitled to if living; but in case my said wife does not survive said Elmer, the whole of said sum so remaining in the hands of said trustees shall go to my said granddaughters, and to the issue of any deceased granddaughter as aforesaid.

Fifteenth. I give to said Deborah S. Thomas, Charles A. Thomas, and William H. Niles, forty thousand dollars (\$40,000.00) in trust, to pay the income thereof to my sister Emily W. Cushman, of said Middleboro, so long as she shall live.

If under the residuary clause of this will said Elmer B. Thomas shall not receive as much as two hundred thousand dollars (\$200,000) then I direct that at the death of said Emily W. Cushman, said principal discharged of all trust, shall be paid to said Elmer, provided he shall have attained the age of thirty years, but should my said sister die before said Elmer attains the age of thirty years, said principal shall be retained by said trustees, or their successors, until he shall have attained the age of thirty years, but should the said Elmer die before attaining the age of thirty years, if he leaves issue living, the same discharged of all trust shall be paid to such issue. If he leaves no issue living, it shall be equally divided amongst his three sisters, if living, but if either of said sisters has died leaving issue living, the share of said sister shall go to such issue; if either of said sisters has died leaving no issue, leaving, the same shall be equally divided between the surviving sisters;

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HAS
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APPOINTED
MR. J. H. B. [illegible]
TO THE
OFFICE OF
PROFESSOR OF
[illegible]
IN THE
DEPARTMENT OF
[illegible]
FOR THE
ACADEMIC YEAR
1900-1901.

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but, if under the residuary clause of this will,

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said Elmer B. receives as much as two hundred thousand dollars (\$200,000.00), then I direct that at the death of said Emily W. Cushman, said principal, discharged of all trust, shall be added to the amount given in the Twenty-second section, of this will to the town of Peabody, for the establishment of a hospital.

Sixteenth. I give to said Deborah S. Thomas, William H. Niles, and Emily W. Cushman, thirty thousand dollars (\$30,000.00) in trust, to pay the income thereof to my brother Charles A. Thomas, of said Peabody, so long as he shall live, and at the death of said Charles A. should his wife Mary Thomas survive him, to pay said income to said Mary so long as she shall live, and at the decease of said Charles A. and Mary Thomas, the principal shall be added to the trust heretofore created in section Fourteenth of this will, and shall be distributed according to the provisions of said section Fourteenth.

Seventeenth. I give to said Deborah S. Thomas, Charles A. Thomas, and William H. Niles, twenty thousand dollars (\$20,000.00) in trust, to pay the income thereof to Elizabeth B. Thomas, widow of my deceased son, so long as she shall live and remain unmarried, and at her marriage, should she marry again, or death should she die unmarried, the principal discharged of all trust, shall be equally divided amongst my said three granddaughters if living, but if either of said granddaughters has died leaving issue living, the share of said Granddaughter shall go to such issue; if either of said granddaughters has died leaving no issue living, the same shall be equally divided between the surviving granddaughters.

Eighteenth. I give, devise and bequeath to said Walter C. Merrill the estate situate on the corner of Oak and Foster Streets, in said Peabody, being the same premises the house of which he now occupies as a dwelling.

I also give to said Walter C. Merrill the sum of twenty-five thousand dollars (\$25,000.00).

Nineteenth. To Patrick Hannon, of said Peabody, I give one

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thousand dollars (\$1000.00) ; to Maggie Dugan, of said Peabody, one
Jany 8, 1898. Josiah B. Thomas.

thousand dollars (\$1000.00); and to Mary Cotter of said Peabody, two
hundred and fifty dollars. (\$250.00)

Twentieth. Whereas, it is my intention to complete the construction of a dwelling house and barn which I am now constructing for my grandson Elmer B. Thomas upon land which I have conveyed to him, in case of my death before I have finally completed and furnished said house, and completed said barn I direct my executors, to carry on and complete the construction and furnishing of said house, and the construction of said barn, until both are made ready for use. All expense incurred under this provision of my will shall be paid out of my estate.

Twenty-first. To the Sutton Home for Aged Women, of Peabody, I give five thousand dollars (\$5000.00) on condition that it shall first incorporate under the laws of Massachusetts, and I direct that said five thousand dollars (\$5000.00) be at all times invested as a separate fund by one or more trustees, such trustee or trustees to give bonds exceeding the amount of said fund for the faithful discharge of his or her duties, and that the income only shall be used for the support of said Home. If said Home fails to incorporate and adopt by-laws for the enforcement of the requirement contained herein within two years, after the probate of my will, this bequest shall be null and void.

Twenty-second. I give fifty thousand dollars (\$50,000.00) to the town of Peabody for the establishment of a hospital.

Twenty-third. All the rest, residue and remainder of my estate, whether real, personal or mixed, I give, devise and bequeath to said Deborah S. Thomas, Charles A. Thomas and William H. Niles, in trust, to be added to the trust set forth in section Fourteenth of this will, and subject to all the terms and stipulations in said Section Fourteenth contained.

Twenty-fourth. I hereby authorize my said trustees, and the survivors of them, and their successors, heirs, executors, and administrators to invest and reinvest in real estate or personal property

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any part of my estate which may come into their hands under the provisions of this will, to sell both real and personal property at public auction or private sale without license of any court, and to execute any and all deeds, mortgages, leases, or other instruments in writing necessary to carry out the spirit and intention of this will and I direct that the purchasers and other persons dealing with my said trustees, or their successors, concerning the trust estate shall not be required to see to the application of the purchase or other money paid to my said trustees, or their successors.

Twenty-fifth. I nominate said Walter C. Merrill, Elmer B. Thomas, and Warren Shaw, of said Peabody, to be the executors of this will, and I authorize my said executors to sell any part of my said real or personal estate not hereinbefore specifically devised or bequeathed at public auction or private sale without license of any court if in their judgment it is expedient so to do to faithfully execute on their part the provisions of this will, and I authorize them to execute all proper deeds or other instruments in writing to convey the same; and I direct my said executors as speedily as they may judiciously do so, to transfer from their own hands to the hands of my trustees before named such sum or sums as I have placed in trust, and if for any cause my said executors cannot turn over or deliver to my said trustees the amount specified in either of the trusts hereinbefore created as soon as said executors are qualified to enter upon the discharge of their duties, then and in that case, I direct my said executors to pay over to said trustees in addition to the amount of such trust a sum which in their judgment is equal to the fair earnings of the amount of such trust between the time said executors were so qualified to act and the time when they turn over the amount of said trust to my said trustees. It being my intention by this provision to secure to the beneficiaries named in said trusts the fair income of said trusts from the time my executors are appointed.

The determination of the amount of such income by my executors

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shall be final and conclusive, and receipts given by my said trustees for the same shall discharge my said executors from all liability to said beneficiaries or either of them.

While it is my intention that my executors shall settle my estate with all consistent diligence, I, nevertheless, authorize and empower them to devote thereto any term not exceeding five years, providing such term shall be reasonably necessary for the proper discharge of their duties.

If by any means my estate shall not be sufficient to pay all the legacies mentioned in this will, I direct that the devise and bequest before made to my said wife shall not be reduced, but shall be given to her as herein provided.

I request that my said wife Deborah S. Thomas and my said sister Emily W. Cushman be exempt from giving surety or sureties upon their official bonds as trustees hereunder, and that my grandson Elmer E. Thomas be exempt from giving surety or sureties on his official bond as executor.

In testimony whereof, I, the said Josiah B. Thomas, have to this my last will and testament written upon twelve sheets of paper subscribed my name and affixed my seal, and for identification have also written my name and the date hereof at the bottom of each of the eleven preceding sheets hereof, this eighth day of January A. D. 1898.

Josiah B. Thomas. (Seal)

On this eighth day of January A. D. 1898, Josiah B. Thomas of Peabody, Massachusetts, signed and sealed the foregoing instrument in our presence, declaring it to be his last will and testament, and as witnesses thereof, we three do now, at his request, in his presence, and in the presence of each other, hereto subscribe our names.

Elliott L. Macdonald.

Hellie Brown.

Florence M. Lull.

I, Josiah B. Thomas of Peabody in the county of Essex, and Commonwealth of Massachusetts, do make this codicil to my last will, dated the eighth day of January, 1898.

Whereas, since the execution of my said will, Warren Shaw, named as executor therein has died, I now nominate my brother Charles A. Thomas to be executor with the other two named in said will, in place of said Warren Shaw, and I request that the said Charles A. Thomas be

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exempt from giving surety or sureties upon his official bond as such executor, or upon any bond as trustee under said will.

In all other respects I ratify and confirm said will.

In testimony whereof, I the said Josiah B. Thomas do subscribe my name to this codicil to my last will this fourth day of May A. D. 1898.

Josiah B. Thomas

On this fourth day of May, A. D. 1898, Josiah B. Thomas of Peabody Massachusetts, signed the foregoing instrument on our presence declaring it to be a codicil to his last will, and as witnesses thereof we three do now, at his request, in his presence, and in the presence of each other, hereto subscribe our names as witnesses.

Elliott L. Macdonald.

Hellie Brown

Florence M. Lull.

Will proved January 2, 1899. Rec. Book 540, Page 28.

Essex, ss. Probate Office, July 14, 1899.

A true copy of record.

Attest: J. T. Mahoney, Register.

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